

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

RICKY SAMUEL ANDERSON,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. 05-1441
	)	Judge Lancaster
	)	Magistrate Judge Caiazza
LAUREL LEGAL SERVICES.,	)	
	)	
Defendant.	)	

**MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

**I. RECOMMENDATION**

It is respectfully recommended that the Plaintiff's application for leave to proceed in forma pauperis (Doc. 1) be denied and that this action be dismissed, without prejudice.

**II. REPORT**

The Plaintiff, Ricky Samuel Anderson ("Anderson") an inmate confined under judgment of sentence at the Westmoreland County Prison, Greensburg, Pennsylvania<sup>1</sup>, filed this lawsuit under the Civil Rights Act of 1871, 42 U.S.C. § 1983, against Laurel Legal

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<sup>1</sup> On November 3, 2005, the court received a Notice of Change of Address showing that the Plaintiff is now a patient at Mayview State Hospital, Bridgeville, Pennsylvania. A copy of this Report and Recommendation is also being mailed to that address. Whether the Plaintiff's transfer to Mayview will have an effect on the application of the relevant statute of limitation or his competency to comply with the court's order directing him to submit an institutional account statement are issues that can be resolved when, and if, those questions come before the court at a later date. Lastly, with respect to the Plaintiff's right to file objections to this Report and Recommendation, he has previously filed documents from Mayview. See Doc. 4.

Services and others. Together with the Complaint, the Plaintiff filed an application for leave to proceed in forma pauperis.

The Prison Litigation Reform Act of 1996, ("the PLRA") 28 U.S.C. §1915(b) as amended April 26, 1996, requires that prisoners who cannot pay the full filing fee immediately, submit an initial partial filing fee and the balance in installment payments. Consistent with that Act, the court entered an Order (Doc. 2) on October 20, 2005, which directed the Plaintiff to submit by November 11, 2005, a certified copy of his institutional account statement from every jail or prison in which he was confined, showing the status of that account or accounts, from May 1, 2005 through the date that the account statement is submitted.

To this date, Anderson has not submitted a six month institutional account statement. Anderson did submit an account statement from September 27, 2005, to October 5, 2005 from the Westmoreland County Prison. The five day statement is insufficient because Anderson has been an inmate at the Westmoreland County Prison since October 22, 2003 and the order entered by this court requires Anderson to submit an institutional account statement dating from May 1, 2005. Because the court will not direct the prison to withdraw money from the Plaintiff's institutional account and pay it into the court until the Plaintiff complies with the relevant provisions of the PLRA, the initial partial filing fee in this case may never be paid.

The Plaintiff's refusal to comply with the directions which appear in the court's October 20, 2005, order makes it impossible for the court to comply with Congress' amendments to the law regulating the manner in which in forma pauperis prison litigation is to be administered. Because the Plaintiff has not complied with the previous order, the court must conclude that Anderson no longer desires to maintain this action.

It is respectfully recommended that the Plaintiff's application to proceed in forma pauperis be denied and that this action be dismissed, without prejudice.

In accordance with the Magistrate's Act, 28 U.S.C. § 636 (b)(1)(B) and (C), and Rule 72.1.4 (B) of the Local Rules for Magistrates, objections to this Report and Recommendation are due by December 7, 2005.

November 21, 2005

s/Francis X. Caiazza  
Francis X. Caiazza  
U.S. Magistrate Judge

cc:

Ricky Samuel Anderson, #3399-2003  
Westmoreland County Jail  
3000 South Grande Boulevard  
Greensburg, PA 15601

Ricky Samuel Anderson, #3399-2003  
Mayview State Hospital,  
1601 Mayview Road,  
Bridgeville, PA 15017